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SUBJECT: DRUGS, TRADE, AND HUMAN RIGHTS: AMBASSADOR'S FIRST MEETING WITH PRESIDENT PORTILLO

REF: GUATEMALA 3306

Classified By: Ambassador John R. Hamilton

1. (C) Summary: At an informal dinner at the home of President Portillo December 28 that also included FM Gutierrez and the DCM, the Ambassador emphasize the need to focus in Portillo's remaining year in office on being recertified and on making progress in other areas -- human rights, corruption and American citizen murder cases -- which, left unattended, could endanger U.S. Congressional approval of the CAFTA. Although the conversation was civil, Portillo was upset about Guatemala's impending decertification, claiming it would weaken his ability to govern effectively and undermine the "reformist" elements of his government. The Ambassador disagreed, indicating that it was not the reformist elements that were being decertified. End Summary.

2. (C) President Portillo invited the Ambassador to an "informal" dinner at his home before his presentation of credentials ceremony, now set for January 8. The backdrop was the increasingly public USG criticism of the government in the latter half of 2002. In the two weeks before the dinner, the local press had run stories based on two leaked Guatemalan foreign ministry cables (from Brussels and Washington) that, inter alia, reported that the USG was weighing the cancellation of Portillo's visa and the impending counternarcotics decertification of Guatemala.

CAFTA AND DECERTIFICATION

3. (C) As it had been in a meeting the previous day with the Foreign Minister (ref), the Ambassador's main message was that time had run out on taking steps that could avoid decertification. The government needed to react, when the announcement came, as positively as possible, making clear its determination to win recertification by the time of the next formal review process, in September. The Ambassador also emphasized that the government would need to make progress in other areas -- human rights, corruption/transparency, American Citizen murder cases and the like -- which, left to fester, could endanger U.S. Congressional approval of a CAFTA agreement. The Ambassador emphasized what an extraordinary opportunity CAFTA is for Guatemala and Central America, offering the best possibilities for reducing poverty and containing elements that will strengthen transparency in all areas of government having to do with trade. Portillo professed to be a strong believer in free trade, pointing to several tariff cuts that had increased competition in formerly protected markets (Comment: his prime motivation for the cuts probably was to attack opponents in the private sector). The Ambassador recapped his December 27 conversation with FonMin Gutierrez, in which the latter described steps (ref) that the GOG would take to strengthen its trade negotiating team, which the Ambassador candidly told the President was the weakest in the region. Portillo, who showed no awareness we could detect of the steps the FonMin had described (ostensibly with Presidential approval), nodded his assent.

4. (C) Decertification, the Ambassador said, was essentially a done deal. It would not be announced until early to mid-January, but the decision had been objectively based upon the GOG's performance, including the widespread use by traffickers of the ports (comment: this was a deliberate zinger, as the President's personal secretary, Julio Giron, exercises de facto supervision over ports), and the poor performance against traffickers, including the failed raid in Zacapa, which clearly was leaked by someone in the GOG (comment: another zinger). Portillo's reaction to the latter was to agree that the failed raid was a shame and to suggest later in the conversation that the Public Ministry was to blame.

5. (C) However, based on some recent positive steps the GOG had taken, the Ambassador said, it was likely that, in the absence of any egregious backsliding in the interim, the USG would approve a national interest waiver for Guatemala, thus avoiding any economic sanctions. And, recertification during 2003 was a possibility, but one that the GOG must earn through sustained, serious accomplishments. They should start by complying with our six benchmarks. But the GOG would

need to do much more to get recertified. (Note: The President was unaware that former FonMin Orellana had told the Ambassador December 16 that his latest analysis was that the President could order the extradition of Marin Castillo, one of the six benchmarks for certification. Gutierrez will see where the decision memo is -- but this illustrates the sloppy staffing of important issues in the GOG.)

16. (C) The Ambassador said that decertification with a waiver would permit CAFTA negotiations to begin with Guatemala included (local rumor had Guatemala excluded) but he said it was politically awkward to decertify a country and begin free trade negotiations almost simultaneously. That was why he had suggested to the Foreign Minister that we meet again in early January for a more structured discussion of the steps the GOG would need to take to be recertified and to clear the way for CAFTA approval. Later in the dinner Portillo asked how the USG had analyzed the likely political consequences of decertification. Would it increase or decrease his ability to govern effectively? Would it hurt the traffickers or embolden them? In his opinion, echoed by the Foreign Minister, decertification would weaken the reformist and positive elements in the GOG during the final and hardest year of his administration and would actually strengthen the drug cartels, whose beyond-the-reach-of-law status would only become more obvious. It would also become a political issue, Portillo and Gutierrez admitted candidly, during an election year.

17. (C) The Ambassador replied that we did not believe that decertification would weaken the reformists. They were not the ones responsible for decertification. Although the opposition and press would seize upon decertification, the GOG also had the opportunity to get recertified. When Portillo complained that the system of criminal justice was penetrated and corrupted by the drug traffickers, tying his hands, the Ambassador responded that one of the weaknesses that puts the drug kingpins beyond reach is the lack of a criminal conspiracy statute. Portillo and Gutierrez reacted positively to this, Portillo instructing Gutierrez to look into it. The Ambassador suggested the GOG could best exert political damage control by reasserting its commitment to fighting drugs and its determination to win recertification through tough action. It was in theory possible to win recertification before the November elections. Portillo said the GOG would of course adopt the most positive public posture possible, as it had no other choice.

Human Rights

18. (C) The Ambassador asked Portillo and Gutierrez why there was an increase in threats against human rights groups. Portillo asked Gutierrez to respond; the Foreign Minister said the basic reason was that several of the human rights groups were involved in prosecutorial investigations that put at risk numerous former members of the military. The latter responded with the actions and threats of clandestine groups. Portillo added noted that some in the international community (comment: an allusion to us) had called upon the government to use military intelligence (D-2) against the clandestine groups. When previous governments had turned to the D-2 to carry out police investigations, however, the price was a lack of civilian control and human rights violations. The DCM responded that our proposal was for the D-2 to provide only information to the appropriate police and public ministry officials, nothing more; if the D-2 refused to share such information, it certainly provided a test of civilian control of the military. Shifting subjects, the President highlighted the impending reduction of some 150 members (about 20 percent) of the EMP (Presidential Military Staff), a long overdue Peace Accords requirement. (Comment: The President did announce this reduction the next day in the six-year anniversary commemoration of the Peace Accords (septel).

Transparency

19. (C) The recently created Transparency Commission, observed the Ambassador, was under considerable pressure to resign due to the President's charging the Commission with ensuring the transparency of the disbursement of funds to be collected through the (controversial) 750 million dollar Eurobond issue. Could the President not assign this task to some other entity, and allow the private and public members of the Commission to focus on larger structural transparency issues? The President agreed that this was a possibility, and that perhaps the GOG could instead use a private verification service to perform these functions. The Ambassador then raised the lack of transparency and the size of the military budget -- two items that went against the Peace Accords, and also prevented the USG -- along with other problems -- from having a normal relationship with the

Guatemalan military. Portillo agreed that the military budget needed more transparency, and said he would explore this (comment: a promise he has made before but never followed through on). He disagreed, however, that the military budget had increased significantly in real terms since 1996 (comment: according to Minugua, the 2002 budget is about 50 percent higher than the Peace Accords target of 0.66 percent of GDP).

American Citizen Murder Cases

10. The Ambassador said that, with another American citizen murdered in December, eleven U.S. citizens had been murdered in Guatemala in the last two years. None has been solved. It is impossible to explain and justify the lack of progress in these cases to the families involved and to the Congress.

Election Observers

11. (SBU) Asked, Portillo told the Ambassador that the GOG would once again invite international election observers for the 2003 elections -- the campaign as well as election day itself. He urged the US to work with the Supreme Electoral Tribunal (TSE), which he described as new and inexperienced. (Comment: WHA DAS Fisk signed our assistance agreement with the TSE in November. Portillo's statement is positive in terms of assuring that the elections are free and fair.)

Comment

12. (C) The meeting covered our most pressing issues with the GOG, and initiated the working relationship between the President and the Ambassador. Portillo was polite and responsive, but was uncharacteristically subdued. He showed little enthusiasm for his upcoming last year in office. Portillo is a complex personality; part of his positive and pragmatic side was to invite the Ambassador to this working dinner before the credentials ceremony. The decertification decision, however, rankles him. He claimed that local misinterpretation of A/S Reich's HIRC testimony cost him a teaching job in Mexico after he leaves office in 2004 -- and his tendency will be to respond to it negatively. We will keep working with FonMin Gutierrez to get the GOG to react in the most positive way possible. On CAFTA, the President was relatively uniformed and unengaged. He is probably personally suspicious of any process that might provide benefits to the private sector, in which a number of his enemies work. At the same time, he doesn't want to be left behind by the rest of Central America. All in all, not a bad first meeting, but genuine progress in all the areas discussed will not be easy.

Hamilton